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IT IS SO ORDERED.

Dated: February 16, 2019



ALAN M. KOSCHIK
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:	: CHAPTER 7 PROCEEDINGS
	: CASE NO.: 17-52074
DARON L. WRIGHT	:
TOYALISA E. WRIGHT	: JUDGE ALAN M. KOSCHIK
	:
Debtor(s)	: <u>ORDER GRANTING AVOIDANCE OF</u>
	: <u>JUDGEMENT LIENS OF DISCOVER</u>
	: <u>NATIONAL BANK, CACH LLC, PNC BANK,</u>
	: <u>AMERICAN EXPRESS BANK, WELTMAN,</u>
	: <u>WEINBERG, & REIS CO. LPA, AND BANK OF</u>
	: <u>AMERICA NA CARE OF KIRSCHENBAUM,</u>
	: <u>PHILLIPS & LEVY PC</u>

At Akron, Ohio in said District this cause came to be heard upon Debtor's request for an Order On Motion to Avoid Judicial Liens of Discover Bank, Cach LLC, PNC Bank, American Express Bank, Weltman, Weinberg & Reis Co. LPA, and Bank of America NA care of Kirschenbaum, Phillips & Levy PC as it's collecting agent in this Chapter 7 Case. Pursuant to 11 USC 522(f)(1)(A) for the reasons set forth represents as follows:

1. On August 30, 2017 the debtors filed a Petition for Relief under Title 11 U.S.C. Chapter 7. This court has jurisdiction in this matter pursuant to 28 U.S.C. Sec. 1334(b) and Sec. 157(A). This is a core proceeding pursuant to 11 U.S.C. Sec. 157(b)(1) and 157(b)(2)(k), which this court can hear and determine.
2. The debtors, Daron L. Wright and Toyalisa E. Wright, personal residence consists of a house and lot located at 1872 Breezewood Drive, Akron, Ohio 44313. Legal Description **(Exhibit A) as attached in motion.**
3. The property, per the attached Summit County Auditor, has a fair market value of \$187,170.00. **(Exhibit B) as attached in motion.**
4. The debtors' pursuant to ORC Section 2329.66(A)(1) claimed an exemption of \$273,850.00, which represents their joint interest in the personal property evidenced by the attached deed. No objections have been filed to the claim of that exemption. **(Exhibit C) as attached in motion.**
5. The real property was, at the time of filing, encumbered by the first mortgage to Countrywide Home Loans Inc, and later assigned to Bank of America NA, Successor by merger to BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing LLC filed for record November 15, 2011, document number 55818460. Original amount of the mortgage \$170,550.00 filed February 24, 2006 in Document number 55293262 of Summit County Recorder's Office. Attached Lien report Summary completed by Cuyahoga Title Services Ltd. **(Exhibit D) as attached in motion.**
6. The real property was at the time of filing, encumbered by the first judgment lien, in favor of **City of Akron**, in the amount of \$344.81, plus interest and costs dated

September 18, 2013, and docketed as JL-2013-8482 in Summit County Common Pleas Court. **(Exhibit E) as attached in motion.**

7. The real property was at the time of filing, encumbered by the second judgment lien, in favor of **Discover Bank**, in the amount of \$7,293.50, plus interest and costs dated November 15, 2013, and docketed as JL-2013-11032 in Summit County Common Pleas Court. **(Exhibit F)**
8. The real property was at the time of filing, encumbered by a third judgment lien, in favor of **Cach, LLC**, in the amount of \$10,853.07, plus interest and costs dated January 23, 2014, and docketed as JL-2014-0539 in Summit County Common Pleas Court. **(Exhibit G)**
9. The real property was at the time of filing, encumbered by a fourth judgment lien, in favor of **PNC Bank**, in the amount of \$48,396.92, plus interest and costs dated February 24, 2014 and renewed on April 25, 2018, knowing that the bankruptcy had been filed listing them as a creditor, and docketed as JL-2014-2301 in Summit County Common Pleas Court. **(Exhibit H)**
10. The real property was at the time of filing, encumbered by a fifth judgment lien, in favor of **American Express Bank FSB**, in the amount of \$5,943.88, plus interest and costs dated September 2, 2014, and docketed as JL-2014-11458 in Summit County Common Pleas Court. **(Exhibit I)**
11. The real property was at the time of filing, encumbered by a sixth judgment lien, in favor of **Weltman, Weinberg & Reis Co. LPA**, in the amount of \$2,072.22, plus interest and costs dated August 14, 2015, and docketed as JL-2015-6443 in Summit County Common Pleas Court. **(Exhibit J)**

12. The real property was at the time of filing, encumbered by a seventh judgment lien, in favor of **Bank of America NA., Kirschenbaum, Phillips & Levy PC**, in the amount of \$5,309.17, plus interest and costs dated November 20, 2015, and docketed as JL-2015-9491 in Cuyahoga County Common Pleas Court. (**Exhibit K**)
13. Pursuant to Section 522(f)(2)(a) of the code, the liens impair the debtors' exemption and are avoidable based upon the following calculation:
 - a) "The Judicial Liens" totaling **\$80,213.57 plus**
 - b) "All other liens on the property" **\$206,447.74 plus**
 - c) "the debtor's joint exemption" - **\$273,850.00**
 - d) exceeds the value of debtors' interest in said property, which is **\$286,661.31**The sum of the liens and exemption is \$286,661.31, which is greater than the debtors' interest in the property, \$273,850.00.
14. Based upon the pleadings filed with the Court there is no non-exempt equity for any of the judgment liens to attach. Based on the prior mortgage on the debtors' real estate, at the time of filing the petition, and pursuant to the exemption provided by ORC2329.66(A)(1), the judgment liens of Discover National Bank, Cach, LLC, PNC Bank, American Express Bank FSB, Weltman, Weinberg & Reis, Bank of America NA. and Kirschenbaum, Phillips, Levy as their collectors, impair the exemption to which the debtor is entitled and has claimed.

After consideration of and pursuant to Title 11 U.S.C. Sec. 522(f)(1)(a) as stated in the above request for order on motion and the confirmed plan; the failure of the creditors to object; and the pleadings, this Court finds that Debtor's Motion is well taken and;

That the Motion to Avoid Judgement Liens of Discover National Bank, Cach LLC, PNC Bank, American Express Bank, Weltman, Weinberg & Reis Co. LPA, and Bank of America NA care of Kirschenbaum, Phillips & Levy PC as it's collecting agent is hereby granted.

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CERTIFICATE OF SERVICE

Certification is hereby made that a true and correct copy of this Order To Avoid Judicial Liens was served via the court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List and by regular U. S. Mail.

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